

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

7 ROBERT E. STEWART,
8 Plaintiff,
9 v.
10 STATE OF NEVADA et al.,
11 Defendants.
12

2:16-cv-02019-JCM-GWF

ORDER

I. DISCUSSION

14 In light of Plaintiff's failure to serve ten (10) interrogatories on the Attorney General's
15 Office in order to discover the identities of "West" and "Montoya" as described in Plaintiff's
16 complaint, the Court now removes this case from the inmate early mediation program and
17 returns the case to the normal litigation track. (See ECF No. 11, 14). The Court now grants
18 Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) and orders service.

19 Based on the information regarding Plaintiff's financial status in the application to
20 proceed *in forma pauperis* (ECF No. 1), the Court finds that Plaintiff is not able to pay an initial
21 installment payment toward the full filing fee pursuant to 28 U.S.C. § 1915. Plaintiff will,
22 however, be required to make monthly payments toward the full \$350.00 filing fee when he
23 has funds available.

24 || II. CONCLUSION

25 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed *in
26 forma pauperis* (ECF No. 1) without having to prepay the full filing fee is granted. Plaintiff shall
27 **not** be required to pay an initial installment fee. Nevertheless, the full filing fee shall still be
28 due, pursuant to 28 U.S.C. § 1915, as amended by the Prisoner Litigation Reform Act. The
movant herein is permitted to maintain this action to conclusion without the necessity of

1 prepayment of fees or costs or the giving of security therefor. This order granting *in forma*
2 *pauperis* status shall not extend to the issuance and/or service of subpoenas at government
3 expense.

4 IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 1915, as amended by the
5 Prisoner Litigation Reform Act, the Nevada Department of Corrections shall pay to the Clerk
6 of the United States District Court, District of Nevada, 20% of the preceding month's deposits
7 to the account of **Robert E. Stewart, #90863** (in months that the account exceeds \$10.00)
8 until the full \$350 filing fee has been paid for this action. The Clerk shall send a copy of this
9 order to the attention of **Albert G. Peralta, Chief of Inmate Services for the Nevada**
10 **Department of Prisons**, P.O. Box 7011, Carson City, NV 89702.

11 IT IS FURTHER ORDERED that, even if this action is dismissed, or is otherwise
12 unsuccessful, the full filing fee shall still be due, pursuant to 28 U.S.C. §1915, as amended by
13 the Prisoner Litigation Reform Act.

14 IT IS FURTHER ORDERED that this case is removed from the inmate early mediation
15 program. This case will return to the normal litigation track.

16 IT IS FURTHER ORDERED that the Clerk of Court SHALL ISSUE summonses for
17 Defendants West and Montoya, **AND DELIVER THE SAME**, to the U.S. Marshal for service.
18 The Clerk **SHALL SEND** to Plaintiff **two (2)** USM-285 forms. The Clerk also **SHALL SEND**
19 a copy of the complaint (ECF No. 6) and a copy of this order to the U.S. Marshal for service
20 on Defendant(s). Plaintiff shall have **thirty (30) days** within which to furnish to the U.S.
21 Marshal the required USM-285 forms with relevant information as to each Defendant on each
22 form. Within **twenty (20) days** after receiving from the U.S. Marshal a copy of the USM-285
23 forms showing whether service has been accomplished, Plaintiff must file a notice with the
24 Court identifying which Defendant(s) were served and which were not served, if any. If Plaintiff
25 wishes to have service again attempted on an unserved Defendant(s), then a motion must be
26 filed with the Court identifying the unserved Defendant(s) and specifying a more detailed name
27 and/or address for said Defendant(s), or whether some other manner of service should be
28 attempted.

1 IT IS FURTHER ORDERED that henceforth, Plaintiff shall serve upon Defendants or,
2 if appearance has been entered by counsel, upon the attorney(s), a copy of every pleading,
3 motion or other document submitted for consideration by the Court. Plaintiff shall include with
4 the original paper submitted for filing a certificate stating the date that a true and correct copy
5 of the document was mailed to the Defendants or counsel for the Defendants. The Court may
6 disregard any paper received by a district judge or magistrate judge which has not been filed
7 with the clerk, and any paper received by a district judge, magistrate judge or the clerk which
8 fails to include a certificate of service.

9 IT IS FURTHER ORDERED that service must be perfected within ninety (90) days from
10 the date of this order pursuant to Fed. R. Civ. P. 4(m).

11 IT IS FURTHER ORDERED that the Clerk of the Court shall terminate the Attorney
12 General's Office's limited notice of appearance for the purpose of conducting limited pre-
13 service discovery in an effort to ascertain the true identity of Defendants West and Montoya
14 (ECF No. 9). Defendants may enter a notice of appearance if/when they are properly served
15 pursuant to this order.

17 DATED: This 18th day of August 2017.

George Foley Jr.
United States Magistrate Judge